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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,888	09/23/2004	Masayuki Adachi	5404/92	9842

757 7590 10/18/2007

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EXAMINER	
PIZIALI, ANDREW T	
ART UNIT	PAPER NUMBER
1794	
MAIL DATE	DELIVERY MODE
10/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/508,888	ADACHI ET AL.	
	Examiner	Art Unit	
	Andrew T. Piziali	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 2* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/19/2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,348,796 to Ichibori in view of Applicant's Disclosure.

Regarding claims 1 and 2, Ichibori discloses a flame resistant union fabric obtained by co-weaving: a compound yarn (A) comprising 30% to 70% by weight of the union fabric, said compound yarn obtained by compounding a halogen-containing flame resistant fiber (a-1) including 25 to 50 parts by weight of an antimony compound in 100 parts by weight of an acrylic based copolymer obtained by polymerizing 30 to 70% by weight of a monomer mixture including acrylonitrile, 30% to 70% by weight of a halogen containing vinyl based monomer, and 0 to 10% by weight of a vinyl based monomer copolymerizable therewith, and another fiber

(a-2) (see entire document including column 2, lines 3-16, column 3, lines 6-17, column 4, lines 59-68, column 5, lines 17-30, and claims 1-13).

Ichibori does not appear to specifically mention co-weaving the compound yarn (A) with a different second yarn, but the applicant discloses that it is known in the art to use cellulosic fibers as a warp and a halogen-containing flame resistant fiber including antimony compounds as the weft yarn for interior design products, such as curtains and chair coverings, because special features of cellulosic fibers, such as natural feeling, hygroscopic property, and heat resistance, can be exhibited (see page 1, line 23 through page 2, line 13 of the current specification). It would have been obvious to one having ordinary skill in the art at the time the invention was made to form a woven fabric with cellulosic fibers as the warp and the halogen-containing flame resistant fibers of Ichibori as the weft, because the fabric could be used for interior design products such as curtains and chair coverings which would then possess natural feeling, hygroscopic property, and/or heat resistance.

Ichibori does not appear to specifically mention that the compound yarn (A) would have an elongation percentage less than 5% under a condition of a load of 300 mg/metric count of No. 17, and of a temperature range of 100 degrees C to 500 degrees C, but considering that the compound yarn taught by Ichibori is identical to the claimed compound yarn, the compound yarn taught by Ichibori appears to inherently possess the claimed property.

Regarding claim 2, the applicant is silent with regards to specific conventional cellulosic materials, therefore, it would have been necessary and thus obvious to look to the prior art for conventional cellulosic materials. Ichibori provides this conventional teaching showing that it is known in the art to use cellulosic materials such as cotton, rayon, acetate, or the like (column 4,

line 59 through column 5, line 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cellulosic warp material from cotton, rayon, acetate, or the like, motivated by the expectation of successfully practicing the invention and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Response to Arguments

4. Applicant's arguments filed 4/19/2007 have been fully considered but they are not persuasive.

The applicant asserts that there is no motivation to combine the references. The examiner respectfully disagrees. Ichibori does not appear to specifically mention co-weaving the compound yarn (A) with a different second yarn, but the applicant discloses that it is known in the art to use cellulosic fibers as a warp and a halogen-containing flame resistant fiber including antimony compounds as the weft yarn for interior design products, such as curtains and chair coverings, because special features of cellulosic fibers, such as natural feeling, hygroscopic property, and heat resistance, can be exhibited. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form a woven fabric with cellulosic fibers as the warp and the halogen-containing flame resistant fibers of Ichibori as the weft, because the fabric could be used for interior design products such as curtains and chair coverings which would then possess natural feeling, hygroscopic property, and/or heat resistance.

The applicant asserts that it is unexpected that a union fabric comprising a compound yarn (A) composed of a halogen-containing flame resistant fiber (a-1) and a cotton or rayon fiber (a-2) would provide a high degree of flame resistance. The applicant pointed to Table 1 of the

specification. Applicant's argument is without merit because applicant's argument is not commensurate in scope with the current claims. The current claims simply require "another fiber (a-2)." The features upon which applicant relies are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew T Piziali/
Primary Examiner, Art Unit 1794